

January 21, 2014

Mr. Igor Tregub
1043 Virginia Street
Berkeley, CA 94710

Re: Your Request for Advice
Our File No. A-14-003

Dear Mr. Tregub:

This letter responds to your request for advice regarding the campaign finance provisions of the Political Reform Act (the “Act”).¹ Please note that our advice is based solely on the Act. We therefore offer no opinion on the application, if any, of additional local campaign finance rules. We advise you to check with your local jurisdiction regarding the applicability of other requirements and restrictions.

QUESTION

May you pay your committee’s annual campaign recipient registration fee from your personal funds instead of funds from your campaign bank account that you had closed in anticipation of terminating your campaign committee?

CONCLUSION

Where you did not file your committee termination by year-end, and thus incurred the next year’s annual \$50 filing fee due to the Secretary of State, it is permissible to pay the filing fee from personal funds. We have advised if a campaign committee filed a Form 410 to terminate on or before January 10, 2014 that the \$50 annual campaign recipient committee fee is not required. After that date, the charges are at the discretion of the Secretary of State’s office.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

You intend to close your campaign committee, “Tregub for Rent Board 2012” at the end of January 2014. You began to take steps to terminate this committee including closing your campaign bank account. However, you neglected to account for the \$50 annual registration fee for your campaign committee which is payable to the Secretary of State’s (“SOS”) office.

You wish to know if you may pay this fee with personal funds as the committee bank account is now closed or if there are any other alternatives short of reopening the campaign bank account.

ANALYSIS

Section 85201 of the Act sets forth what is known as the “one-bank account rule.” Under this rule, a candidate for elective office may establish only one campaign bank account and controlled committee for each office sought. Section 85201 provides, in pertinent part, the following:

“(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

“(b) As required by subdivision (f) of Section 84102, a candidate who raises contributions of one thousand dollars (\$1,000) or more in a calendar year shall set forth the name and address of the financial institution where the candidate has established a campaign contribution account and the account number on the committee statement of organization filed pursuant to Sections 84101 and 84103.

“(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate’s controlled committee shall be deposited in the account.

“(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

“(e) All campaign expenditures shall be made from the account.”

“(f) Subdivisions (d) and (e) do not apply to a candidate’s payment for a filing fee and statement of qualifications from his or her personal funds.

“(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than one

thousand dollars (\$1,000) in a calendar year to support his or her candidacy. For purposes of this section, a candidate's payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made."

Section 85201 states that all campaign expenditures must be made from the campaign account. However, we recognize that you closed your campaign bank account in anticipation of terminating your campaign committee and not for some improper purpose.

Similar to the narrow exception in 85201(g), which states that a candidate may pay filing fees to get on the ballot with personal funds (presumably because these may need to be paid before a committee is formed), we find that you may pay the required SOS filing fee with personal funds because you have closed your committee bank account and are in the process of terminating your committee.

We have advised in the past if a campaign committee filed a Form 410 to terminate on or before January 10 that the \$50 annual campaign recipient committee fee is not required. After that date, the charges are at the discretion of the SOS. You may wish to contact the SOS to see if your committee qualifies to have this fee waived.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Emelyn Rodriguez
Counsel, Legal Division

ER:jgl